

PERISHABLE AGRICULTURAL COMMODITIES ACT**DEFAULT DECISIONS**

In re: DONALD L. WILSON, d/b/a D&R MARKETING.

PACA Docket No. D-98-0013.

Decision and Order filed November 25, 1998.

Mary Hobbie, for Complainant.

Respondent, Pro se.

Decision and Order issued by Victor W. Palmer, Chief Administrative Law Judge.

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. §499a *et seq.*) hereinafter referred to as the "Act", instituted by a complaint filed on February 11, 1998, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. It is alleged in the complaint that during the period August 1995, through May 1996, Respondent failed to make full payment promptly to 19 sellers in the total amount of \$232,473.50 for 51 transactions involving perishable agricultural commodities it purchased, received, accepted, and resold in interstate and foreign commerce.

A copy of the complaint was mailed to the Respondent by certified mail on February 12, 1998, returned unclaimed on February 6, 1998, and was mailed again by regular mail on May 6, 1998. This complaint has not been answered. The time for filing an answer having run, and upon motion of the Complainant for the issuance of a default order, the following Decision and Order shall be issued without further investigation or hearing pursuant to Section 1.139 of the Rules of Practice (7 C.F.R. §1.139).

Findings of Fact

1. Respondent, Donald L. Wilson, d/b/a D & R Marketing, is an individual whose business address is 18530 Kalin Ranch Road, Victorville, California 92392. Respondent's mailing address is 3919-A Guasti Road, Ontario, California 91761.

2. At all times material herein, Respondent was licensed under the provisions or operating subject to the provisions of the PACA. PACA license number 910736 was issued to Respondent on March 5, 1991. The license was suspended on October 4, 1996, for failure to pay three reparation orders pursuant to Section 7(d)

of the PACA (7 U.S.C. § 499g(d)). This license terminated on March 5, 1997, when Respondent failed to pay the required annual renewal fee pursuant to Section 4(a) of the PACA (7 U.S.C. § 499d(a)).

3. As more fully set forth in paragraph 3 of the complaint, during the period of August 1995, through May 1996, Respondent purchased, received, accepted, and resold in interstate and foreign commerce from 19 sellers, 51 transaction involving perishable agricultural commodities, but failed to make full payment promptly of the agreed purchase prices or balance thereof in the total amount of \$232,473.50.

Conclusions

Respondent's failure to make full payment promptly with respect to the transactions set forth in Finding of Fact No. 3, above, constitutes willful, repeated and flagrant violations of Section 2(4) of the Act (7 U.S.C. §499b(4)), for which the following Order is issued.

Order

A finding is made that Respondent has committed willful, repeated and flagrant violations of Section 2(4) of the Perishable Agricultural Commodities Act (7 U.S.C. §499b(4)), and the facts and circumstances set forth above shall be published.

This order shall take effect on the eleventh day after this Decision becomes final.

Pursuant to the Rules of Practice governing procedures under the Act, this Decision will become final without further proceedings thirty-five days after service hereof, unless appealed to the Secretary by a party to the proceedings within thirty days after service as provided in Sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §1.139 and 1.145).

Copies hereof shall be served upon the parties.

[This Decision and Order became final January 27, 1999.-Editor]

In re: GEORGE G. GOOSIE, d/b/a G&S PRODUCE.

PACA Docket No. D-98-0024.

Decision and Order filed December 16, 1998.

Jane McCavitt, for Complainant.

Respondent, Pro se.

Decision and Order issued by Victor W. Palmer, Chief Administrative Law Judge.

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*) hereinafter referred to as the "Act", instituted by a complaint filed on July 23, 1998, by the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture. It is alleged in the complaint that during the period September 1996 through May 1997, respondent purchased, received, and accepted, in interstate and foreign commerce, from 17 sellers, 281 lots of fruits and vegetables, all being perishable agricultural commodities, but failed to make full payment promptly of the agreed purchase prices, in the total amount of \$320,184.28.

A copy of the complaint was served upon respondent which complaint has not been answered. The time for filing an answer having run, and upon the motion of the complainant for the issuance of a Default Order, the following Decision and Order is issued without further investigation or hearing pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent, George G. Goosie, dba G & S Produce, is a individual, whose address is 2220 Forest Avenue, Knoxville, Tennessee 37916.

2. Pursuant to the licensing provisions of the Act, license number 962489 was issued to respondent on September 4, 1996. This license terminated on September 4, 1997, pursuant to Section 4(a) of the Act (7 U.S.C. § 499d(a)) when respondent failed to pay the required annual license fee.

3. As more fully set forth in paragraph 5 of the complaint, during the period September 1996 through May 1997, respondent purchased, received, and accepted, in interstate and foreign commerce, from 17 sellers, 281 lots of fruits and vegetables, all being perishable agricultural commodities, but failed to make full

payment promptly of the agreed purchase prices, in the total amount of \$320,184.28.

Conclusions

Respondent's failure to make full payment promptly with respect to the 281 transactions set forth in Finding of Fact No. 3, above, constitutes willful, repeated and flagrant violations of Section 2 of the Act (7 U.S.C. § 499b), for which the Order below is issued.

Order

A finding is made that respondent has committed willful, flagrant and repeated violations of Section 2 of the Act (7 U.S.C. § 499b), and the facts and circumstances set forth above, shall be published.

This order shall take effect on the 11th day after this Decision becomes final.

Pursuant to the Rules of Practice governing procedures under the Act, this Decision will become final without further proceedings 35 days after service hereof unless appealed to the Secretary by a party to the proceeding within 30 days after service as provided in sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§ 1.139 and 1.145).

Copies hereof shall be served upon parties.

[This Decision and Order became final January 25, 1999.-Editor]

In re: COSTA & HARRIS PRODUCE, INC.
PACA Docket No. D-98-0023.
Decision and Order filed December 17, 1998.

Imani K. Ellis-Cheek, for Complainant.
Respondent, Pro se.

Decision and Order issued by James W. Hunt, Administrative Law Judge.

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*) hereinafter referred to as the "Act", instituted by a Complaint filed on July 16, 1998, by the Deputy

Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture. It is alleged in the Complaint that during the period of June 1996 through January 1998, Respondent purchased, received and accepted, in interstate commerce from 33 sellers, 265 lots of perishable agricultural commodities, but failed to make full payment promptly of the agreed purchase prices or balance thereof in the total amount of \$768,434.78.

A copy of the Complaint was served upon Respondent on July 28, 1998, which Complaint has not been answered. The time for filing an answer having run, and upon motion of the Complainant for the issuance of a default order, the following Decision and Order shall be issued without further investigation or hearing pursuant to Section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent, Costa & Harris Produce, Inc., was a corporation organized and existed under the laws of the State of New York. Its business mailing address was New York City Terminal Market, Unit 334, Bronx, New York 10474.

2. At all times material herein, Respondent was licensed under the provisions of PACA. License number 810934 was issued to Respondent on April 28, 1981. This license terminated on April 28, 1998, pursuant to Section 4(a) of the PACA (7 U.S.C. § 499g), when Respondent failed to pay the required annual renewal fee.

3. As more fully set forth in paragraph 3 of the Complaint, during the period of June 1996 through January 1998, Respondent purchased, received and accepted, in interstate commerce from 33 sellers, 265 lots of perishable agricultural commodities, but failed to make full payment promptly of the agreed purchase prices or balance thereof in the total amount of \$768,434.78.

Conclusions

Respondent's failure to make full payment promptly with respect to the transactions set forth in Finding of Fact No. 3, above, constitutes willful, repeated and flagrant violations of Section 2(4) of the Act (7 U.S.C. § 499b(4)), for which the Order below is issued.

Order

A finding is made that Respondent has committed willful, repeated and flagrant violations of Section 2(4) of the Perishable Agricultural Commodities Act (7 U.S.C. § 499b(4)), and such violations shall be published.

This order shall take effect on the eleventh day after this Decision becomes final.

Pursuant to the Rules of Practice governing procedures under the Act, this Decision will become final without further proceedings thirty-five days after service hereof, unless appealed to the Secretary by a party to the proceedings within thirty days after service as provided in Sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. § 1.139 and 1.145).

Copies hereof shall be served upon the parties.

[This Decision and Order became final January 27, 1999.-Editor]

**In re: ROBINSON POTATO SUPPLY COMPANY OF KANSAS CITY,
KANSAS, INC.**

PACA Docket No. D-98-0021.

Decision and Order filed December 30, 1998.

Mary Hobbie, for Complainant.

Respondent, Pro se.

Decision and Order issued by James W. Hunt, Administrative Law Judge.

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. §499a *et seq.*) hereinafter referred to as the "Act", instituted by a Complaint filed on May 4, 1998, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. It is alleged in the complaint that during the period January 1997, through April 1997, respondent failed to make full payment promptly to 35 sellers in the total amount of \$686,434.39 for 272 lots of perishable agricultural commodities it purchased, received and accepted in interstate commerce.

A copy of the complaint was mailed to the respondent by certified mail on May 4, 1998, using its post office box address and again mailed by regular mail on June 11, 1998 (the complaint was returned unclaimed on June 11, 1998 and undeliverable on July 24, 1998, respectively). The complaint was again mailed to respondent using its street address by certified mail on July 24, 1998, and again by regular mail on August 24, 1998 (the complaint was again returned undeliverable on August 3, 1998 and September 3, 1998, respectively). This complaint has not

been answered. The time for filing an answer having run, and upon motion of the complainant for the issuance of a default order, the following Decision and Order shall be issued without further investigation or hearing pursuant to Section 1.139 of the Rules of Practice (7 C.F.R. §1.139).

Findings of Fact

1. Respondent, Robinson Potato Supply Company of Kansas City, Kansas, Inc., was a corporation organized and existing under the laws of the State of Kansas. Its business address was 200 South 5th Street, Kansas City, Kansas 66101-3895. Its mailing address was Post Office Box 171176, Kansas City, Kansas 66117-0176.

2. At all times material herein, respondent was licensed under the provisions or operating subject to the provisions of the PACA. PACA license number 881346 was issued to respondent on June 8, 1988. The license terminated on June 8, 1997, when respondent failed to pay the required annual renewal fee pursuant to Section 4(a) of the PACA (7 U.S.C. § 499d(a)).

3. As more fully set forth in paragraph 3 of the complaint, during the period of January 1997, through April 1997, respondent purchased, received, and accepted in interstate commerce from 35 sellers, 272 lots of perishable agricultural commodities, but failed to make full payment promptly of the agreed purchase prices or balance thereof in the total amount of \$686,434.39.

Conclusions

Respondent's failure to make full payment promptly with respect to the transactions set forth in Finding of Fact No. 3, above, constitutes willful, repeated and flagrant violations of Section 2(4) of the Act (7 U.S.C. §499b(4)), for which the Order below is issued.

Order

A finding is made that respondent has committed willful, repeated and flagrant violations of Section 2(4) of the Perishable Agricultural Commodities Act (7 U.S.C. §499b(4)), and the facts and circumstances set forth above shall be published.

This order shall take effect on the eleventh day after this Decision becomes final.

Pursuant to the Rules of Practice governing procedures under the Act, this Decision will become final without further proceedings thirty-five days after service hereof, unless appealed to the Secretary by a party to the proceedings within thirty-five days after service as provided in Sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §1.139 and 1.145).

Copies hereof shall be served upon the parties.

[This Decision and Order became final April 18, 1999.-Editor]

In re: R&B PRODUCE, INC.
PACA Docket No. D-99-0001.
Decision and Order filed January 22, 1999.

JoAnn Waterfield, for Complainant.
Respondent, Pro se.

Decision and Order issued by James W. Hunt, Administrative Law Judge.

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*) hereinafter referred to as the "Act", instituted by a complaint filed on October 8, 1998, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. It is alleged in the complaint that during the period November 1996 through July 1997, Respondent failed to make full payment promptly to six sellers of the agreed purchase prices in the total amount of \$110,919.39 for 32 lots of perishable agricultural commodities, that Respondent purchased, received and accepted in interstate commerce.

A copy of the complaint was served upon Respondent, and it has not been answered. The time for filing an answer having run, and upon motion of the Complainant for the issuance of a Default Order, the following Decision and Order is issued without further investigation or hearing pursuant to Section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent, R&B Produce, Inc., is a corporation organized and existing under the laws of the Commonwealth of Virginia, with a business address of 19268

Poplar Street, Melfa, Virginia 23410, and business mailing address of P.O. Box 159, Melfa, Virginia 23410.

2. PACA license number 962264 was issued to Respondent on August 6, 1996. This license was suspended on July 17, 1998, for failure to pay reparation awards, and was terminated on August 6, 1998, pursuant to Section 4(a) of the PACA (7 U.S.C. § 499d(a)), when Respondent failed to pay the required annual renewal fee.

3. As more fully set forth in paragraph 3 of the complaint, Respondent, during the period November 1996 through July 1997, failed to make full payment promptly to 6 sellers of the agreed purchase prices in the total amount of \$110,919.39 for 32 lots of perishable agricultural commodities, which it purchased, received and accepted in interstate commerce.

Conclusions

Respondent's failure to make full payment promptly with respect to the transactions set forth in Finding of Fact No. 3 above, constitutes willful, repeated and flagrant violations of Section 2(4) of the Act (7 U.S.C. § 499b(4)), for which the Order below is issued.

Order

A finding is made that Respondent has committed willful, repeated and flagrant violations of Section 2(4) of the Perishable Agricultural Commodities Act (7 U.S.C. § 499b(4)), and the facts and circumstances set forth above shall be published.

This order shall take effect on the 11th day after this Decision becomes final.

Pursuant to the Rules of Practice governing procedures under the Act, this Decision will become final without further proceedings 35 days after service hereof unless appealed to the Secretary by a party to the proceedings within thirty days after service as provided in Sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§ 1.139, 1.145).

Copies hereof shall be served upon the parties.

[This Decision and Order became final March 5, 1999.-Editor]

In re: UNITED FRUIT AND PRODUCE CO., INC.
PACA Docket No. D-98-0027.
Decision and Order filed February 3, 1999.

Deborah Ben-David, for Complainant.
Respondent, Pro se.

Decision and Order issued by Edwin S. Bernstein, Administrative Law Judge.

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. §499a *et seq.*) hereinafter referred to as the Act, instituted by a Complaint filed on September 1, 1998, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. It is alleged in the complaint that during the period March 26, 1997, through March 6, 1998, Respondent failed to make full payment promptly to 30 sellers of the agreed purchase prices totaling \$321,878.66 for 240 lots of perishable agricultural commodities that it purchased, received, and accepted in interstate and foreign commerce.

A copy of the complaint was served upon Respondent, which complaint has not been answered. The time for filing an answer having run, and upon motion of the Complainant for the issuance of a default order, the following Decision and Order is issued without further investigation or hearing pursuant to section 1.139 of the Rules of Practice (7 C.F.R. §1.139).

Finding of Fact

1. United Fruit and Produce Co., Inc., (hereinafter "Respondent") is a corporation organized and existing under the laws of the State of Pennsylvania. Its mailing address is 1812 Peach Street, Erie, Pennsylvania 16501.

2. At all times material herein, Respondent was licensed under the provisions of the Act. License number 870711 was issued to Respondent on February 26, 1987. This license terminated on February 26, 1998, pursuant to section 4(a) of the Act (7 U.S.C. §499d(a)), when Respondent failed to pay the required annual renewal fee.

3. As more fully set forth in paragraph III of the complaint, during the period March 26, 1997, through March 6, 1998, Respondent purchased, received, and accepted in interstate or foreign commerce 240 lots of perishable agricultural

commodities from 30 sellers but failed to make full payment promptly of the agreed purchase prices thereof in the total amount of \$321,878.66.

Conclusions

Respondent's failure to make full payment promptly with respect to the transactions set forth in Finding of Fact Number 3 above constitutes willful, repeated, and flagrant violations of section 2(4) of the Act (7 U.S.C. §499b(4)), for which the Order below is issued.

Order

A finding is made that Respondent has committed willful, repeated, and flagrant violations of section 2(4) of the Act (7 U.S.C. §499b(4)). This finding is hereby ordered published.

This order shall take effect on the eleventh day after this Decision becomes final.

Pursuant to the Rules of Practice governing procedures under the Act, this Decision will become final without further proceedings thirty-five days after service hereof unless appealed to the Secretary by a party to the proceedings within thirty days after service as provided in sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§1.139 and 1.145).

Copies shall be served upon the parties.

[This Decision and Order became final March 18, 1999.-Editor]

In re: ENNIS & MCGEE PRODUCE CO., INC.
PACA Docket No. D-98-0030.
Decision and Order filed February 10, 1999.

Deborah Ben-David, for Complainant.
Respondent, Pro se.

Decision and Order issued by James W. Hunt, Administrative Law Judge.

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. §499a *et seq.*) hereinafter referred to as the Act, instituted by a complaint filed on September 11, 1998, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. It is alleged in the complaint that during the period November 1996 through November 1997, Respondent failed to make full payment promptly to 49 sellers of the agreed purchase prices totaling \$1,272,394.24 for 4,363 transactions of perishable agricultural commodities that it purchased, received, and accepted in interstate and foreign commerce.

A copy of the complaint was served upon Respondent, which complaint has not been answered. The time for filing an answer having run, and upon motion of the Complainant for the issuance of a default order, the following Decision and Order is issued without further investigation or hearing pursuant to section 1.139 of the Rules of Practice (7 C.F.R. §1.139).

Finding of Fact

1. Ennis & McGee Produce Company, Inc., (hereinafter "Respondent") is a corporation organized and existing under the laws of the State of North Carolina. Its mailing address is 1117 Agriculture Street, Raleigh, North Carolina 27603.
2. At all times material herein, Respondent was either licensed or operating subject to license under the provisions of the Act. License number 841593 was issued to Respondent on July 3, 1984. This license terminated on July 3, 1997, pursuant to section 4(a) of the Act (7 U.S.C. §499d(a)), when Respondent failed to pay the required annual renewal fee.
3. As more fully set forth in paragraph III of the complaint, during the period November 1996 through November 1997, Respondent purchased, received, and accepted in interstate or foreign commerce 4,363 transactions of perishable

agricultural commodities from 49 sellers but failed to make full payment promptly of the agreed purchase prices thereof in the total amount of \$1,272,394.24.

Conclusions

Respondent's failure to make full payment promptly with respect to the transactions set forth in Finding of Fact Number 3 above constitutes willful, repeated, and flagrant violations of section 2(4) of the Act (7 U.S.C. §499b(4)), for which the Order below is issued.

Order

A finding is made that Respondent has committed willful, repeated, and flagrant violations of section 2(4) of the Act (7 U.S.C. §499b(4)). This finding is hereby ordered published.

This order shall take effect on the eleventh day after this Decision becomes final.

Pursuant to the Rules of Practice governing procedures under the Act, this Decision will become final without further proceedings thirty-five days after service hereof unless appealed to the Secretary by a party to the proceedings within thirty days after service as provided in sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§1.139 and 1.145).

Copies shall be served upon the parties.

[This Decision and Order became final March 20, 1999.-Editor]
